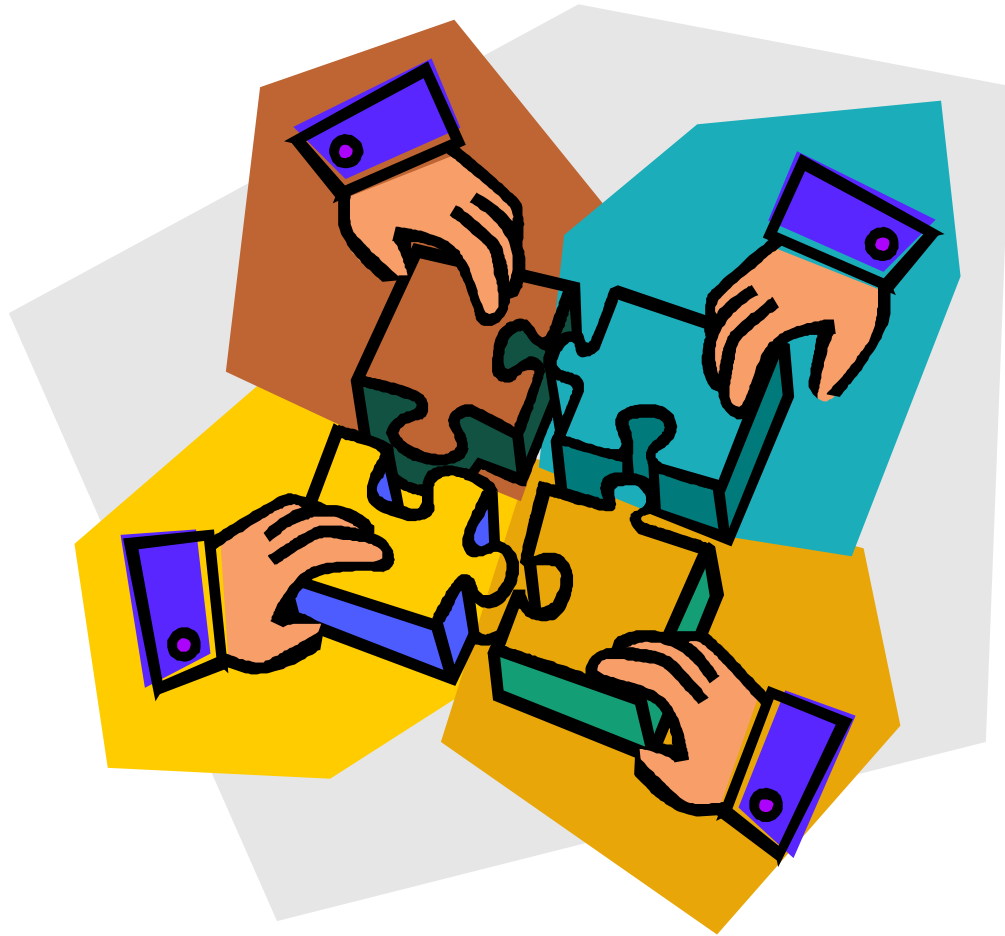


RESIDENTIAL CARE SERVICES COMPLAINT/INCIDENT INVESTIGATION GUIDANCE



Washington State
Department of Social & Health Services
Aging & Disability Services Administration
Residential Care Services Division

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RCS C/I GUIDANCE

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I. DATA GATHERING AND THE INVESTIGATIVE PROCESS

- [Basic steps to complaint and incident investigation](#)
- [Data-gathering and the impact on decision-making](#)
- [Considerations related to sample selection](#)

BASIC STEPS TO COMPLAINT AND INCIDENT INVESTIGATION

1. Review intake and identify regulatory issues.
2. After review of issues, discuss any special considerations and/or unusual investigative strategies with Field Manager.
3. Interview complainant per policy.
4. Develop investigative plan
 - i. Observations
 - ii. Interviews
 - iii. Record Reviews
5. Conduct on-site investigation
 - i. Observations
 - ii. Interviews
 - iii. Record Reviews
6. Review and analyze investigative data.
7. Determine if deficient practice.
8. Make enforcement recommendations in coordination with Field Manager and notify provider/facility.
9. Make any necessary referrals.
10. Complete narrative report and complaint packet. Notify complainant of findings.
11. Forward complaint packet to headquarters.

DATA GATHERING AND THE IMPACT ON DECISION-MAKING DURING THE INVESTIGATIVE PROCESS

Findings vs. Deficient Practice

A “finding” is a piece of information about facility practices obtained through observation, interview, or record review. An analysis of investigative “findings” for sampled residents should lead the investigator to reach conclusions about the facility, how it cares for residents, and whether or not the facility practices are deficient. Similarly, findings in procedure, policy or structure may also be analyzed to determine if practices are deficient.

“Deficient practice” conveys a bigger picture. Webster defines “deficient” as: (1) lacking an essential quality or element and (2) inadequate in amount or degree. “Practice” is defined as a habitual or customary action or manner of doing something. “Practice” can also be defined as the action, error, or lack of action on the part of the facility relative to a requirement.

When you consider the definitions, it is clear that there is a difference between the two concepts—a “finding” is a discrete item of information, while “deficient practice” is the product of inadequately providing services or the provision of poor quality of services to one or more residents. “Practice,” by definition, is more than one happening or occurrence. This is not to say that one-time observations can never be cited as deficient practice....one severe incident with one resident can result in a deficiency, but this is usually the exception and not the rule.

Investigators have a responsibility to look at multiple opportunities throughout the investigation to determine if the “errors” were singular events or truly reflective of a pattern or habit of behavior. Investigators should always go back and review the language of the specific regulation to see if the regulation is a “resident” or “facility” requirement. After reviewing this, it can then be determined if the failed practice is related.

If the investigator cannot clearly articulate the specific failed practice to the provider/facility, both orally and in writing, it is unlikely that the facility will make appropriate corrections. In addition to assuring that resident health and safety is protected, the determination of failed facility practice is one of the most important decisions that the investigator will make during the course of a complaint investigation.

Data Collection and Decision-Making

During the process of investigation and data collection, the investigator should be evaluating findings. Ask yourself:

- Have I verified the findings by some other means? (other interviews, observation of another resident's care, etc.)
- Have I tested my conclusions for assumptions? When I have made an assumption, what other information would either validate or change the assumption?
- Do my facts give clear-cut direction in the decision of compliance? If not, what other facts or information could make the decision more clear-cut? More observations? Another interview? A specific person to be interviewed?

When investigators decide there is deficient practice before the evidence or data is gathered there can be faulty decision-making regarding compliance, particularly if something “bad” has happened to a resident. Deciding that there is deficient practice before gathering sufficient evidence means that the investigator has relied on assumptions or emotions rather than the facts of the case to make a decision.

The order and manner in which information is gathered will depend on the type of complaint that is being investigated. It is very important to remember that the determination of whether the complaint “happened” is not enough. The investigator also needs to determine noncompliant facility practices related to the complaint situation, and this can only be determined by reviewing a sample of residents during the investigation.

CONSIDERATIONS RELATED TO SAMPLE SELECTION

The investigator should focus on selecting sample residents who are most likely to have those conditions/needs/problems described in the allegation. Based on the setting and the size of the facility, it is not always possible to find a sample of residents with similar or same care needs. However, that does not obviate the need to use a sampling process while conducting the investigation.

Additional resident factors that can assist with resident selection and completion of the sample include:

- Use of interviewable and non-interviewable residents
- Residents that are new admissions (because the facility is responsible to provide care from the 1st day of admission—can give insight on routine practices of the facility)
- Residents most at risk of neglect and abuse (i.e. those with dementia, residents with infrequent visitors, residents with behavior problems, bedfast residents, residents who are totally dependent)

Analysis and decision-making related to investigative data

In order to make effective decisions based on investigative data, there are several underlying critical elements to the investigative process. Some of these are:

- Recognizing if we have regulatory authority for every issue that is in the complaint
- Determining an accurate set of problems and issues to investigate
- Determining and focusing on what to look for and where to find it
- Noticing “red flags” (detecting indicators of potential problems)
- Uncovering the system that contributed to the problem (the specific failed facility practice)
- Identifying a representative sample so that the scope of the problem can be determined
- Determining the scope and severity of the problems
- Interpreting the rules and regulations as they apply to the alleged issue
- Determining what to cite and where to cite
- Documenting the findings so that a picture is created with words
- Documenting an accurate deficient practice statement based on the regulation

Keep in mind that observations provide first hand knowledge to the investigator. Observations are the most powerful evidence investigators collect, especially when validated by interviews and record reviews. The investigator should spend as much time as possible performing observations, and conducting formal and informal interviews. The investigator should not spend excessive time gathering and recording information from the record. Instead, use the record review to obtain information necessary to validate and/or clarify information already obtained through observation and interview. Complaint investigators should not routinely be reviewing the entire record, or making a determination of failed practice based only on record review.

II. OFF-SITE ACTIVITIES TO PREPARE FOR THE INVESTIGATION

- [Interview the complainant](#)
- [Review facility history](#)
- [Develop plan for on-site observations, interviews & record reviews](#)

INTERVIEWING COMPLAINANTS PRIOR TO ON-SITE INVESTIGATION

Effective communication is key to complaint investigation. The investigator must be courteous, respectful, objective, neutral, and able to communicate with complainants in a clear and easily understood manner.

When interviewing a complainant, explain that confidentiality will be respected and that their name would only be disclosed should a legal hearing occur. Also explain that while you will do everything possible to protect their confidentiality, sometimes a facility may recognize the situation or issue being investigated and independently relate this to the complainant.

Questions to consider when interviewing the complainant before going onsite:

- When and how often do you typically visit the facility?
- What are your concerns?
- How did you become aware of the issue(s)?
- When did it happen? Has it happened before?
- Did you tell anyone? If so, whom?
- Does the facility know about this concern?
- Has anything been done about it?
- Is it still a problem?
- How did it affect the resident?
- Is the resident able to describe what happened or identify the alleged perpetrator? Do you know the name of the alleged perpetrator?
- If not, who could provide additional information?
- Have other residents been affected?
- Is there a particular staff member or other resident/family member/visitor you are concerned about?
- When might that person be on duty or in the facility?
- Are there any other concerns?

REVIEW FACILITY HISTORY

There are numerous resources that the investigator may refer to regarding the facility's compliance history. This is especially helpful if the investigator is not familiar with the facility, or if there are particular areas of concern expressed by the complainant. **It is not necessary to comprehensively review each of these resources prior to investigation.**

Alleged Victim and Alleged Perpetrator Complaint/Incident History

- Review previous complaints/incidents within the last year for the facility. Determine if there have been similar issues, victims, alleged perpetrators or residents reported
- Review the "Person Info View" from the [RCS Complaints Report View web site](#) to determine if there are repeat incidents with the named resident or perpetrator in the complaint intake

Status of Home (may need to review based on complainant's alleged issue)

- License number and number of residents for which the facility is licensed.
- Current state contracts and/or any specialty designations
- Exemptions
- Most recent inspection findings
- Enforcement history including any conditions on the license
- Compliance status: any uncorrected deficiencies
- Recent changes in ownership

Allegation of an Unlicensed Home

- Consult with agency colleagues (DDD & HCS) to see if they have any information associated with the reported home's address.
- Consult with your Field Manager to determine if the setting requires an RCS license or not.
- Plan on obtaining key information during your investigation, particularly in the community settings of adult family homes and boarding homes. It is very likely that there will be no facility history to review prior to your onsite investigative activities.

PLANNING FOR INVESTIGATIVE OBSERVATIONS

If this will be the first time that the investigator has been to the facility, the investigator should plan to do a brief general tour of the facility to familiarize yourself with the layout of resident rooms and common areas.

A complaint investigation is not a full-inspection. The purpose of any observation or touring activity during a complaint investigation is to focus on observing residents in relationship to the alleged care issues. It is important for the investigator to be aware that this focused touring is very different from the general purpose touring process required during the full-inspection process.

If there is an existing issue-specific protocol in your complaint investigator's guidebook, use that protocol's observation section as a guide in conjunction with the following general guidelines.

The key to effective investigation is to plan focused observations on the identified issue or concern.

When observing residents, note:

- Appearance, hygiene, apparel
- Demeanor—(i.e. behaviors, mood, whether they appear comfortable, relaxed, happy)
- Cognitive status and communication capabilities
- Mobility (i.e. limitations/adaptive devices)
- Presence of IV's, feeding tubes, catheters, splints, bruises, bandages
- Injured/affected areas of resident body (ask resident permission to observe)—accompanied by facility staff and/or a nurse colleague if a skin observation is to be done
- Presence of restraining devices, safety (or medical) devices or practices
- Interactions between staff and other residents
- Resident's room—homelike? Personal belongings reflect history and/or preferences? Clear pathways? Safety issues with cooking appliances? Quality of life concerns?
- Resident isolated or secluded? Door closed? Meals in room? Resident in controlled access unit?

When observing staff, note:

- Interactions with residents and other staff
- Staff respectful of resident privacy, dignity, and independence?
- Interventions and assistance provided to residents/
- Provide redirection and cuing to residents as needed?
- Adequate supervision and staffing?
- Techniques and skills?

What needs to be observed?

- Atmosphere—welcoming, homelike vs. sterile
- Environment—odors, cleanliness, lighting, temperature, safety hazards both inside/outside, restricted or blocked egress, clear pathways, pets, uneven surfaces, screens, pests, oxygen storage, signage and handling, safety issues in kitchenette or common areas
- Accommodations—accessible phones, lowered sinks, bedside commodes, adaptive equipment and/or utensils, etc

Where should the observations be done?

- In conjunction with treatments, activities, mealtimes, time of day or day of week, specific shift(s), when certain staff or residents are present?
- Hospital or other setting?
- Specific location of incident or occurrence?

How many observations are needed?

- Should be determined by the concern; may need to do more than one observation or conduct observations on a specific shift or across shifts

PLANNING FOR INVESTIGATIVE INTERVIEWS

The goal of investigative interviewing is to determine if there is facility failed practice (facility failed to do something or did something wrong) in relationship to an allegation of abuse, neglect, or misappropriation of resident funds. There are numerous parties that may have information about the resident's situation, but the relevance to determining failed facility practice should be the guiding factor as to whether these individuals are actually interviewed. Whenever possible, **the resident** should be the primary source of interview data.

Who needs to be interviewed, pertinent to the issue or concern?

There are many individuals whose interviews may be pertinent to the situation, including:

- Residents,
- Residents alleged as victims and alleged as perpetrators
- Resident representatives
- Administrative staff
- Alleged perpetrators
- Visitors
- Family
- Roommate
- Prior resident
- LTC and MH ombudsmen
- Veteran's Administration
- Health care provider/facilities
- Other agency staff (HCS/DDD/MH case managers)
- Nurse delegators
- Activity centers
- Social clubs
- Local law enforcement
- APS, etc.

If the named resident is not in the home, or to protect the resident's confidentiality, consider interviewing other residents.

When/where do the interviews need to be done?

- Before going on-site?
- Before or after observations?
- Best settings?
- Special accommodations needed? (i.e. interpreter, large print questions, etc.)
- If named resident is not in the home, consider (if necessary) interviewing in the resident's new location (hospital, another residence, etc.)
- Consult with your Field Manager as applicable.

General questions to consider using with interviewees:

- Are you aware of the reported issue(s)?
- How has this issue affected the resident(s)?
- How did you become aware of the problem?
- How long has it been going on?
- Have you told anyone?
- Is the facility aware?
- What was the facility's response?
- What has the facility done about it?
- Has the problem been resolved?
- Do you have any other questions?

PLANNING FOR RECORD REVIEWS

As the complaint investigator is developing the investigative plan, he/she should be mindful of records that may need to be reviewed as part of the on-site investigation. This plan may need to be adjusted and/or expanded, based on observation and interview data obtained on-site. Keep in mind that the investigator should not spend excessive time gathering and recording information from the record, but use the record review to validate and/or clarify information already obtained through observation and interview.

Records that may be relevant to specific issues being investigated include, but are not limited to:

- Open and/or closed resident records
 - i. Admission agreements
 - ii. Assessments
 - iii. Negotiated care plan/service agreements
 - iv. Medication Administration Records (MARs)/Daily Medication Logs
 - v. Behavioral monitoring
 - vi. Notes related to informed consent
- House Policies
- Staffing schedules
- Maintenance and housekeeping records
- Contracts
- Incident logs
- Hospital records
- Outside home health agency records
- Financial records related to managing resident funds

III. ON-SITE ACTIVITIES

- [Introduction & Entry into Facility](#)
- [Investigative Observations](#)
- [Investigative Interviews: Residents, Staff, Collaterals](#)
- [Record Reviews](#)
- [Review and Analysis of Data](#)
- [Status Report on Exit/Last Day of On-site Data Collection](#)

ON-SITE PROCESS

The RCS investigator's role is not to do a criminal investigation. RCS investigators have two primary roles:

1. To identify areas of failed facility practice or noncompliance related to the allegation (issue), and
2. To determine if residents are adequately protected when an allegation of abuse and neglect has been reported.

During the course of onsite investigative work, if the complaint investigator identifies concerns regarding either resident or personal safety, immediate contact should be made with the Field Manager. If the investigator arrives at the facility to conduct the investigation and is denied access to either residents or the facility, immediate contact should be made with the Field Manager.

The investigator shouldn't take the original (or a copy) of the complaint/incident intake form into the facility. This prevents the possibility of inadvertent disclosure of complainant and resident identity. The investigator should also not leave the intake (original or copy) in the investigator's car (to protect resident confidentiality in case of theft).

INTRODUCTION/ENTRY INTO FACILITY

- Investigator should provide name, function, general purpose of visit, and business card.
- If the licensee/administrator or designated facility representative is not present, investigator should request that he/she be notified.
- Establish a tone to encourage and facilitate communication.
- Provide a general description of the issues that are alleged in the complaint or incident. Avoid disclosing specific details or any information that would identify the named resident or complainant.
- Briefly explain the investigative process if necessary.

INVESTIGATIVE OBSERVATIONS

- Initially observe the general environment of the home, staff and resident interactions, and general care and service delivery as you enter the facility. Conduct more focused observations later in the investigation as indicated by your pre-planning.
- Obtain copy of resident census and names of staff on duty.
- Do brief tour of facility to observe general appearance of residents and facility.

Resident Interviews

Choose the best location for interviews considering:

- Privacy
- Comfort of the resident and accommodation of resident needs
- Ensure that monitors and intercoms are turned off

INVESTIGATIVE INTERVIEWS: RESIDENTS, STAFF, COLLATERALS

The following questions listed are probes that the investigator may consider using when conducting interviews. All interviews should be generally focused on the allegation(s) raised in the complaint/incident, and interviews should be done for those residents, families, and collaterals that are pertinent to the sample of residents selected by the investigator. Additional interview questions may be found in issue-specific protocols.

Resident-specific questions

- How long have you lived here?
- How do you feel about living here?
- How are you treated?
- Who takes care of you?
- What do they do for you?
- Do staff give you the assistance you require for your condition?
- Do staff come when you call?
- How do staff and other residents talk to you or treat you?

Resident probes related to reported concerns

- “I heard this happened. Tell me about it”....(who, what, where, when)
- How did it make you feel? How did it affect you? Ask for specifics that describe or explain what type of outcome they had (i.e. “It made me nervous. I couldn’t sleep for a week”)
- Has this happened before? (when, where, etc.)
- Who did you tell? Is the facility aware?
- What have they done about it?
- Is it still a problem?
- Do you have any other concerns?

Resident probes related to quality-of-life and/or resident rights

- Are there rules related to living here? (i.e. bedtimes, meal times, visitors, etc.)
- How do you spend your time? Is that satisfactory to you?
- If dissatisfaction, boredom, fears, etc. are expressed, ask specifically what happened that caused them to feel that way.
- Do you have any concerns about living here?

Family and/or collaterals’ questions

- How often are you in the home? How recently have you been in the home?
- What have been your direct observations?
- Do you still have concerns regarding care and services or other issues?

Staff questions

- What residents have had issues like the reported concern or had a change in condition (ask in a manner that avoids divulging the nature of the complaint)
- What can you tell me about it?
 - i. How did you become aware of the problem?
 - ii. When did it happen?
 - iii. Has it ever happened before?
 - iv. What have you done about it?
 - v. Is it still a problem?
 - vi. What do you think may have caused it?
- What process (facility practice) do you follow for concerns related to the reported concern or change of condition?
- Who do you communicate with when the reported concern or change of condition occurs?
- How do you ensure staff are aware of changes in the resident(s) care plan?
- Can you show me your documentation?
- Do you have concerns regarding care and services or other issues?

RECORD REVIEWS

Record reviews should be confined to the identified allegation(s)

Based on observation and interview, determine what records need to be reviewed. Refer to your investigative plan to assist with identification of specific records that you believe you will need, i.e. open and/or closed resident records pertinent sections (admission agreement, assessments, negotiated care plan/service agreement, MAR's, behavioral monitoring, informed consent, etc), house policies, staffing schedules, maintenance and housekeeping records, contracts, and incident logs.

RESIDENT RECORDS

Demographics

For those residents named in the complaint/incident, note name, date of birth, date of admission, pertinent diagnoses to alleged issue, designated Resident Representative (with telephone number), primary health care provider/facility (with telephone number), and resident room number.

Resident's care and service needs with related interventions for all sampled residents

Note baseline data (pertinent to alleged issues):

- Risk factors, cognitive ability, psychosocial or behavioral status, communication ability, transfer and mobility status, ADL needs, dietary needs, medications, etc.
- Review any recent changes in medical, mental, physical, behavioral conditions, and/or medications
- History of related incidents and/or occurrences
- Other contributing factors

Review documentation related to alleged incident and/or occurrence.

Review pertinent assessments that occurred before and after the incident, if applicable.

Review pertinent interventions that the facility put into place before and after the incident.

Determine whether the facility reevaluated the resident after the event and/or if new interventions were put into place.

Determine if appropriate notifications occurred.

For significant changes:

- Was a reassessment done? Was it done timely and by a qualified party?
- Were interventions implemented?
- Were appropriate parties notified?

FACILITY RECORDS

Review only if necessary.

Review pertinent sources of information

Confine review to the alleged issue(s) and focus on:

- Evidence of facility investigation
- Disclosure of Services
- Admission/Rental Agreements
- Policies and Procedures related to the alleged issue

Personnel Files (review only if necessary)

- Name(s) and date of hire
- References—obtained and checked out
- Current background checks with disclaimer and no disqualifying convictions
- Qualifications i.e. orientation to facility, specialty training (DDD/MH/Dementia), current CPR and First Aid Card, TB results, HIV/AIDS, Food Handler's card, Basic/Modified Fundamentals
- Current license
- Continuing education (pertinent training)
- Evaluations/counseling for similar incidents
- Nurse delegated tasks pertinent to reported concerns

REVIEW AND ANALYSIS OF DATA

Determination of failed practice—Analysis of Data

Briefly review your investigative plan. Determine if you have reviewed sufficient information to answer the following:

- Did the allegation occur?
- Is the facility's explanation of how and what happened consistent with the investigative findings?
- Conclusions validated by interview, observations and record reviews?
- Investigation (when required) thorough and in accordance with regulatory requirements?
- Did facility comply with reporting and notification requirements?
- Did facility recognize and address trends or patterns?
- If system problems, have they been corrected?
- Are appropriate interventions in place to prevent a reoccurrence for the resident and other "at risk" residents?
- Did the resident experience additional harm because of the facility's failure to be in compliance?

If resident harm occurred:

- Did or should the facility have identified the resident to be "at risk?" (assessment)
- Did the facility develop interventions addressing risk factors? (care-planning)
- Did the facility implement preventive measures as planned? (care observation)
- Did the facility put systems in place to ensure provision of preventive measures, including sufficient trained staff? (quality assurance)

If harm occurred because of an incident:

- Was the facility response timely, including protection of the resident as necessary?
- Was the facility timely and thorough? Was acute clinical management provided as needed for medical, physical, psychological issues?
- Were interventions timely and consistent? Were interventions reevaluated for effectiveness?
- Were outcomes avoidable or preventable? Were outcomes unavoidable?

Compare findings to regulatory requirements:

- Is there failed practice? Is there more than one failed practice?
- If "yes", what is the scope and severity of each failed practice?

Confer with your Field Manager as needed.

STATUS REPORT ON EXIT FROM FACILITY OR LAST DAY OF ON-SITE DATA COLLECTION

Use this opportunity to explain preliminary findings and identified deficiencies to the licensee or facility representative to provide them with an opportunity to ask questions and present additional information. Ensure licensee or facility representative is aware of resident issues that need immediate attention.

- Review issues and preliminary findings.
- Identify deficient practices with the appropriate regulation and/or statute.
- Provide facility with an opportunity to discuss, ask questions, and present related additional information.
- Inform facility of the process that will follow i.e., what to expect including possible need for further data collection, the Informal Dispute Resolution (IDR) process and the Statement of Deficiencies (SOD) report.
- Clarify that if further information is obtained, the licensee or designee will be contacted by telephone if there will be any additions or significant changes to the deficiencies discussed during the exit.
- Explain that with citations, the SOD will be mailed within 10 working days from the last date of data collection; the cover letter will explain if a plan of correction is required; the plan of correction must be mailed back within 10 calendar days of receipt; and that the Field Manager is a resource for questions regarding the findings.
- Ensure that the licensee or designee has a business card/contact information for you and your Field Manager.
- Thank the staff for their cooperation with the investigation.

IV. FINAL DETERMINATION

- [Evaluate Investigative Evidence](#)
- [Inform Provider/Facility of Final Outcome](#)
- [Write Statement of Deficiency](#) (if applicable)
- [Referrals](#)

FINAL DETERMINATION

The goal of data gathering and fact finding during a complaint investigation is to provide irrefutable evidence regarding a provider's/facility's compliance or noncompliance with the regulations. If, as you collect findings, you determine that it is more likely than not that there is deficient practice, it is important to identify the specific regulation that relates to the failed practice. Review the elements of the regulation as you collect data and before making your final determination.

As you review your investigative data, make sure that you:

- Devoted as much time as possible to performing observations and conducting interviews.
- Limited record reviews to obtaining validating or clarifying information
- Used pieces of information in the record to assist with directing what observations and interviews you conducted

CONSIDER THE STRENGTH OF YOUR INVESTIGATIVE EVIDENCE...

- What types of observations demonstrate what was or was not happening?
- What did the resident think?
- Which staff persons should have or had information and could have been interviewed?
- What single piece of the record would or should provide information about what was done or what should have been done?

Ask yourself the following:

- Is the information you obtained by physical evidence, interview or record review consistent?
- Are the stories different or consistent?
- If they are different, is there someone that can explain the differences or has evidence that explains the differences? If not, then ask, "Do I have enough information to verify which story is more 'correct' or plausible?"
- Where could you get more information if needed?
- Is the information credible or is credibility an issue?
- How do you determine whom to believe?
- How was it determined?
- Why do you believe or disbelieve the person that was interviewed?
- Are there other facts that verify or present further contradictions? Which version is true?
- What does the documentation in the record tell you?
- Is it accurate?
- How do you know?
- Do the findings support each other?
- Would other facts clarify the situation?

- Who or which facility staff member was closest to providing the services or care that is in question?
- What other records could be reviewed to clarify the situation?
- What other observations could be made?

If, at this point, the investigator cannot make a determination of compliance or non-compliance, it may be that you will need to do more observations, interviews and record reviews until a decision can be made. Discuss this with your Field Manager.

INFORM PROVIDER/FACILITY OF FINAL OUTCOME

Call the licensee or designee to summarize the investigative findings if there are additional deficiencies that were identified as part of the final determination process, or to previously identified deficiencies discussed during the status report/exit conference.

Offer to review the RCW/WAC/F-tag regulatory requirements related to the deficiency with the provider/facility.

If indicated, review information that was discussed during the status report/exit conference.

WRITE STATEMENT OF DEFICIENCY (IF APPLICABLE)

Review all pertinent investigative findings, and confirm analysis of deficiency citations. Confer with the Field Manager if an enforcement action may be recommended, or if other questions arise.

Complete the Statement of Deficiencies and related enforcement activities in accordance with the RCS “Operational Principles and Procedures for Statement of Deficiencies Reports”.

REFERRALS

If the investigator determines that additional referrals are necessary, notify the Complaint Resolution Unit and follow the established CRU Complaint/Incident Referral Processing Principle and Procedure. This procedure includes referrals to professional licensing boards (DOH), Medicaid Fraud, and Adult Protective Services (APS).

V. GLOSSARY OF TERMS

Key Words and Definitions

“ADSA” – An acronym (a word formed from the initial letters of a name) for Aging and Disability Services Administration in the Department of Social and Health Services.

“Allegation” – A statement (claim, assertion, witnessing) or a gesture made by someone (regardless of capacity or decision-making ability) that indicates that abuse, neglect, exploitation or misappropriation of resident property may have occurred and as such requires a thorough investigation.

“Chemical Restraint” – This means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident’s medical symptoms.

“Complaint” – A report communicated to Residential Care Services’ (RCS) Complaint Resolution Unit (CRU) by anyone **NOT** acting as an administrator or authorized official for a provider that is licensed or regulated by Residential Care Services (RCS). The report alleges abuse, neglect, exploitation, or misappropriation of resident property for one or more vulnerable adult(s)/resident(s). The complainant could be a resident, a family member, a health care provider, a concerned citizen, other public agencies, or a mandated or permissive reporter. Report sources may be verbal or written.

* (See footnote below).

“Confidential Information” – A type of information that is protected by state or federal laws, including information about residents/vulnerable adults, DSHS clients, employees, vendors or contractors, and agency systems that is not available to the public without legal authority.

“Department” – This term refers to the Washington state Department of Social and Health Services (DSHS).

“Evidence” – The observation, interview and/or record review data that substantiates the failure of the licensee to comply with one or more regulations/legal requirements.

“Facility” – As defined in [RCW 74.34.020\(5\)](#), this term refers to a residence licensed or certified under [Chapter 18.20 RCW](#), boarding homes; [Chapter 18.51 RCW](#) nursing homes; [Chapter 70.128 RCW](#) adult family homes; [Chapter 72.36 RCW](#) soldiers’ homes; or [Chapter 71A.20 RCW](#), residential habilitation centers; or any other facility licensed or certified by the Department.

“Fact” – An event known to have actually happened. A truth that is known by actual experience or observation.

“Failed Facility Practice” – Describes the action(s), error(s), or lack of action(s) on the part of the licensee relative to statute(s) or regulation(s) and, to the extent possible, the resulting negative outcome(s) to resident(s). Term includes deficient practice, which is defined as “lacking an essential quality or element, and inadequate in amount or degree”.

*** NOTE:** The use of the terms “complaint” and “incident” only impacts RCS’ ability to track and analyze data. All “complaints” and “incidents” are allegations to be investigated according to current processes/protocols and timelines established by the priority assigned to each type of report to the Department.

“Finding” – A generic term used to describe each discrete item of information observed or discovered during a complaint/incident investigation about facility practices of a licensee related to the specific statute(s) or regulation(s) under review. A finding does not automatically mean failed facility practice until all data is analyzed to determine failure of the home.

“Health Care” – The care, services or supplies related to the health of a resident, including, but not limited to, preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; counseling for a physical or mental condition, a prescribed drug, device or equipment.

“Health Information” – Any information, whether oral or recorded in any form or medium, that:

1. Is created or received by DSHS concerning a resident or potential resident; and,
2. Relates to the past, present, or future physical or mental health or condition of the resident; the provision of health care to the resident; the past, present or future payment for the provision of health care to the individual resident.

“HIPAA” – An acronym for the Health Insurance Portability and Accountability Act of 1996.

“Home” – A generic term used to describe an adult family home, a boarding home and a nursing home in the state of Washington.

“Incident” – An official notification communicated to RCS’ Complaint Resolution Unit (CRU) from a self-reporting provider/provider representative that RCS licenses or regulates. Owners, operators and managers of facilities must self-report incidents and/or allegations of vulnerable adult abuse, abandonment, financial exploitation, sexual abuse, physical abuse, mistreatment, neglect and misappropriation of resident property as outlined in [RCW 74.34, Abuse of Vulnerable Adults](#). Nursing homes must also report resident injuries of unknown source and any other requirements outlined in [WAC 388-97, Nursing Homes](#). *(See footnote below).

“Inspection” – A generic term used to describe the process by which RCS staff evaluates a licensee’s compliance with statutes and regulations. Complaint/incident investigations are only one type of onsite inspection/survey done to determine the health and safety of residents in licensed long-term care residential settings.

“Licensee” – A generic term to describe individuals/entities/providers licensed to provide adult family home, boarding home and/or nursing home care in the state of Washington.

“Long-term care facility” – As defined in RCW 70.129.010(3), this term refers to a facility that is licensed or is required to be licensed under [Chapter 18.20](#) (Boarding Homes), [72.36](#) (Soldiers’ and Veterans’ Homes), or [70.128 RCW](#) (Adult Family Homes).

“Mandated Reporter” – As defined in [RCW 74.34.020\(8\)](#), this is an employee of the Department; law enforcement; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to [Chapter 18.130 RCW](#).

**** NOTE:** The use of the terms “complaint” and “incident” only impacts RCS’ ability to track and analyze data. All “complaints” and “incidents” are allegations to be investigated according to current processes/protocols and timelines established by the priority assigned to each type of report to the Department.*

“Medicaid Fraud Control Unit” (MFCU) – This statewide Unit now based in Olympia, and with a branch of four staff in Spokane to focus on Eastern Washington, investigates and prosecutes the criminal abuse and neglect of residents of Medicaid-funded facilities and fraud perpetrated by health care providers against the Medicaid system. As of early 2007, the MFCU includes four attorneys and 20 other investigators and support staff. Assistant Attorney General Dawn Cortez is now the Director of the MFCU.

“Official State Duties” – Refers to those duties within the specific scope of employment of the state officer or state employee as defined by the officer’s or employee’s agency or by statute of the state Constitution. ([RCW 42.52.010\(12\)](#))

“Outcome” – In this context, the term means an actual or potential result or consequence, directly or indirectly, related to failed facility practices of the licensee. Harm to residents that is unrelated to failed facility practice is not a negative outcome for complaint/incident investigation processes.

“Permissive Reporter” – This term refers to any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

“Physical Restraint” – Refers to a manual method, obstacle, or a physical or mechanical device, material, or equipment attached or adjacent to the resident’s body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident’s medical symptoms.

“Practitioner” – The term includes a licensed physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist and physician assistant. Refer to [Chapter 69.41 RCW](#) for a complete listing of practitioners.

“Priority Definitions” – For both complaints and incidents, the period of actual time by when those investigations shall be initiated on-site within a specified number of days from receipt in the RCS’ Regional units:

- **2 Working Days:** This is an allegation of a life-threatening situation that has caused, or is at risk of causing, substantial harm of such consequence that urgent intervention is necessary.
- **10 Working Days:** This is an allegation of a situation that has caused harm, injury, or impairment to the resident. A timely response is indicated because the situation is present and ongoing, or there is high potential for reoccurrence of the incident.
- **20 Working Days:** This is an allegation of a situation that is not likely to reoccur, but if it did, would pose a risk of potential harm for that resident or other residents. The provider/facility may have investigated the situation, and initiated corrective action. Investigation by RCS is required because of the need to determine whether the facility/home’s systems are intact.
- **45 working days:** This is an allegation of a situation that commonly involves the failure to provide general care and services. The resident has experienced no more than discomfort, and no significant impairment to physical, mental, or safety status.

- **90 working days:** Complaint investigation may be delayed if the allegation is general in nature, anonymous, and a survey/inspection is scheduled within 90 working days. In general, this is a priority assignment made by the Field Manager, not by the CRU. Complaint issues in this category do not meet the criteria for a 2, 10, 20, or 45 working days assignment.
- **Quality Review:** This is a reported allegation where the home appears to have taken appropriate action in response to the situation, and measures have been instituted by the home to prevent reoccurrences. All appropriate parties have been notified, including professional licensing boards (if appropriate). Allegations may also receive a “Quality Review” designation if another report of a more urgent nature has already prompted an investigation of the situation by the Department. [On-site investigation is not indicated by this Intake].

“Purple Book” – This term refers to the current resource manual “Nursing Home Guidelines: Incident Identification, Investigation, Reporting – Partners in Prevention” (Fourth Edition March 2006). This document contains guidelines for investigating, determining and reporting incidents of resident abuse, neglect and mistreatment, injuries of unknown source, exploitation, or misappropriation of resident property in Nursing Homes (NH). [Refer also to Chapter IV – Definitions \(pages 7 – 18\) for further NH program definitions.](#)

“Reasonable Accommodation” – Refers to actions taken by a facility to respond to the needs of a prospective or current resident and has the meaning given to this term under the federal Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

“RCS” – An acronym for Aging and Disabilities Service Administration’s Residential Care Services division.

“RCW” – An acronym for Revised Code of Washington. (All references to RCW chapters or sections shall include any successor, amended, or replacement statute.)

“Representative” – In this context the word means a person appointed under [RCW 7.70.065](#) (Informed Consent – Persons Authorized to Provide for Patients Who Are Not Competent – Priority).

“Resident” – This term means the individual receiving services in a long-term care facility, that resident’s attorney in fact, guardian, or other legal representative acting within the scope of their authority.

“Resident Protection Program” – This term refers to the RCS program formed in 1996 to meet federal and state requirements to review and investigate allegations of abuse and neglect of nursing home residents and misappropriation of resident property by individuals providing services to the residents. A finding is placed on the OBRA registry when the individual is found through a civil hearing to have committed such an act. The finding prohibits employment of the individual by nursing care facilities. Refer to [RCS MB 03-047, Resident Protection Program \(RPP\) Procedures](#) to find the updated methods and activities carried out by the program.

“State Fire Marshal” – This reference means the director of fire protection under the direction of the chief of the Washington State Patrol (WSP).

“Statement of Deficiencies” (SOD) – The official written report document from RCS staff that identifies violations of statute(s) and/or regulation(s), failed facility practice(s) and relevant findings found during a complaint/incident investigation conducted at an adult family home, boarding home and/or nursing home.

“Vulnerable adult” means as comprehensively defined in [RCW 74.34.020\(13\)](#). RCS is responsible for investigating allegations of abuse and neglect for a vulnerable adult who:

- Is sixty years of age or older and has the functional, mental, or physical inability to care for himself or herself; or
- Is found incapacitated under [Chapter 11.88 RCW](#); or
- Has a developmental disability as defined under [RCW 71A.10.020](#); or
- Admitted to any facility* (*see definition)
- Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under [Chapter 70.127 RCW](#); or
- Receiving services from an individual provider under [RCW 74.34.020](#).

For the purposes of requesting and receiving background checks pursuant to [RCW 43.43.832](#), Background Checks & Sharing of Criminal Background Information by Health Care Facilities, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

“WAC” – An acronym for Washington Administrative Code. (All references to WAC chapters or sections shall include any successor, amended, or replacement regulation.)

“Willful” – means the non-accidental action or inaction that resulted in the abuse of a resident. The term does not mean that an individual intended to cause harm, pain, anguish, or injury. Instead, it means that the individual intended the action or inaction itself that s/he knew or should have known could cause harm, anguish, pain or injury.